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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5838

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State of Washington

68th Legislature

2024 Regular Session

**By** Senate Ways & Means (originally sponsored by Senators Nguyen, Conway, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Lovick, Muzzall, Nobles, Saldaña, Salomon, Stanford, Torres, Valdez, and Wellman; by request of Attorney General)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to establishing an artificial intelligence task  
2 force; creating new sections; providing an expiration date; and  
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that artificial  
6 intelligence is a fast-evolving technology that holds extraordinary  
7 potential and has a myriad of uses for both the public and private  
8 sectors. Advances in artificial intelligence technology have led to  
9 programs that are capable of creating text, audio, and media that are  
10 difficult to distinguish from media created by a human. This  
11 technology has the potential to provide great benefits to people if  
12 used well and to cause great harm if used irresponsibly.

13 The legislature further finds that generative artificial  
14 intelligence has become widely available to consumers and has great  
15 potential to become a versatile tool for a wide audience. It can  
16 streamline tasks, save time and money for users, and facilitate  
17 further innovation. Artificial intelligence has the potential to help  
18 solve urgent challenges, while making our world more prosperous,  
19 productive, innovative, and secure when used responsibly.

20 Washington state is in a unique position to become a center for  
21 artificial intelligence and machine learning. When used

1 irresponsibly, artificial intelligence has the potential to further  
2 perpetuate bias and harm to historically excluded groups. It is vital  
3 that the fundamental rights to privacy and freedom from  
4 discrimination are properly safeguarded as society explores this  
5 emerging technology.

6 The federal government has not yet enacted binding regulations,  
7 however in July 2023, the federal government announced voluntary  
8 commitments by seven leading artificial intelligence companies,  
9 including three companies headquartered in Washington, to move toward  
10 safe, secure, and transparent development of artificial intelligence  
11 technology. The October 2023 executive order on the safe, secure, and  
12 trustworthy development and use of artificial intelligence builds on  
13 this work by directing developers of artificial intelligence systems  
14 to share their safety test results for certain highly capable models  
15 with the United States government.

16 Numerous businesses and agencies have developed principles for  
17 artificial intelligence. In Washington, Washington technology  
18 solutions (WaTech) developed guiding principles for artificial  
19 intelligence use by state agencies. These principles share common  
20 themes: Accountability, transparency, human control, privacy and  
21 security, advancing equity, and promoting innovation and economic  
22 development.

23 The legislature finds that the possible impacts of advancements  
24 in generative artificial intelligence for Washingtonians requires  
25 careful consideration in order to mitigate risks and potential harms,  
26 while promoting transparency, accountability, equity, and innovation  
27 that drives technological breakthroughs. On January 30, 2024,  
28 governor Inslee issued Executive Order 24-01 directing WaTech to  
29 identify generative artificial intelligence initiatives that could be  
30 implemented in state operations and issue guidelines for public  
31 sector procurement and usage.

32 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts  
33 appropriated for this specific purpose, a task force to assess  
34 current uses and trends and make recommendations to the legislature  
35 regarding guidelines and potential legislation for the use of  
36 artificial intelligence systems is established.

37 (2) The task force is composed of an executive committee  
38 consisting of members as provided in this subsection.

1 (a) The president of the senate shall appoint one member from  
2 each of the two largest caucuses of the senate.

3 (b) The speaker of the house of representatives shall appoint one  
4 member from each of the two largest caucuses of the house of  
5 representatives.

6 (c) The attorney general shall appoint the following members,  
7 selecting only individuals with experience in technology policy:

8 (i) One member from the office of the governor;

9 (ii) One member from the office of the attorney general;

10 (iii) One member from Washington technology solutions;

11 (iv) One member from the Washington state auditor;

12 (v) One member representing universities or research institutions  
13 that are experts in the design and effect of an algorithmic system;

14 (vi) One member representing private technology industry groups  
15 or business associations;

16 (vii) One member representing community advocate organizations  
17 that represent communities that are disproportionately vulnerable to  
18 being harmed by algorithmic bias;

19 (viii) One member representing statewide labor organizations; and

20 (ix) One member representing public safety.

21 (d) The task force may meet in person or by telephone conference  
22 call, videoconference, or other similar telecommunications method, or  
23 a combination of such methods.

24 (e) The executive committee may convene subcommittees to advise  
25 the task force on the recommendations and findings set out in  
26 subsection (4) of this section.

27 (i) The executive committee shall define the scope of activity  
28 and subject matter focus required of the subcommittees including, but  
29 not limited to: Education and workforce development; public safety  
30 and ethics; health care and accessibility; labor; government and  
31 public sector efficiency; state security and cybersecurity; consumer  
32 protection and privacy; and industry and innovation.

33 (ii) Subcommittees and their members may be invited to  
34 participate on an ongoing, recurring, or one-time basis.

35 (iii) The executive committee in collaboration with the attorney  
36 general shall appoint members to the subcommittees that must be  
37 comprised of industry participants, subject matter experts,  
38 representatives of federally recognized tribes, or other relevant  
39 stakeholders.

1 (iv) Each subcommittee must contain at least one member  
2 possessing relevant industry expertise and at least one member from  
3 an advocacy organization that represents communities that are  
4 disproportionately vulnerable to being harmed by algorithmic bias  
5 including, but not limited to: African American; Hispanic American;  
6 Native American; Asian American; Native Hawaiian and Pacific Islander  
7 communities; religious minorities; individuals with disabilities; and  
8 other vulnerable communities.

9 (v) Meeting summaries and reports delivered by the subcommittees  
10 to the executive committee must be made available on the attorney  
11 general's website within 30 days of delivery.

12 (3) The office of the attorney general must administer and  
13 provide staff support for the task force. The office of the attorney  
14 general may, when deemed necessary by the task force, retain  
15 consultants to provide data analysis, research, recommendations,  
16 training, and other services to the task force for the purposes  
17 provided in subsection (4) of this section. The office of the  
18 attorney general may work with the task force to determine  
19 appropriate subcommittees as needed.

20 (4) The executive committee and subcommittees of the task force  
21 shall examine the development and use of artificial intelligence by  
22 private and public sector entities and make recommendations to the  
23 legislature regarding guidelines and potential legislation for the  
24 use and regulation of artificial intelligence systems to protect  
25 Washingtonians' safety, privacy, and civil and intellectual property  
26 rights. The task force findings and recommendations must include:

27 (a) A literature review of public policy issues with artificial  
28 intelligence, including benefits and risks to the public broadly,  
29 historically excluded communities, and other identifiable groups,  
30 racial equity considerations, workforce impacts, and ethical  
31 concerns;

32 (b) A review of existing protections under state and federal law  
33 for individual data and privacy rights, safety, civil rights, and  
34 intellectual property rights, and how federal, state, and local laws  
35 relating to artificial intelligence align, differ, conflict, and  
36 interact across levels of government;

37 (c) A recommended set of guiding principles for artificial  
38 intelligence use informed by standards established by relevant  
39 bodies;

1 (d) Identification of high-risk uses of artificial intelligence,  
2 including those that may negatively affect safety or fundamental  
3 rights;

4 (e) Opportunities to support and promote the innovation of  
5 artificial intelligence technologies through grants and incentives;

6 (f) Recommendations on appropriate uses of and limitations on the  
7 use of artificial intelligence by state and local governments and the  
8 private sector;

9 (g) Racial equity issues posed by artificial intelligence systems  
10 and ways to mitigate the concerns to build equity into the systems;

11 (h) Civil liberties issues posed by artificial intelligence  
12 systems and civil rights and civil liberties protections to be  
13 incorporated into artificial intelligence systems;

14 (i) Recommendations as to how the state should educate the public  
15 on the development and use of artificial intelligence;

16 (j) A review of protections of personhood, including replicas of  
17 voice or likeness, in typical contract structures, and a review of  
18 artificial intelligence tools used to support employment decisions;  
19 and

20 (k) Proposed state guidelines for the use of artificial  
21 intelligence to inform the development, deployment, and use of  
22 artificial intelligence systems to:

23 (i) Retain appropriate human agency and oversight;

24 (ii) Be subject to internal and external security testing of  
25 systems before public release for high-risk artificial intelligence  
26 systems;

27 (iii) Protect data privacy and security;

28 (iv) Promote appropriate transparency for consumers when they  
29 interact with artificial intelligence systems or products created by  
30 artificial intelligence; and

31 (v) Ensure accountability, considering oversight, impact  
32 assessment, auditability, and due diligence mechanisms.

33 (5) The executive committee of the task force must hold its first  
34 meeting within 45 days of final appointments to the task force and  
35 must meet at least twice each year thereafter. The task force must  
36 submit reports to the governor and the appropriate committees of the  
37 legislature detailing its findings and recommendations. A preliminary  
38 report must be delivered by December 31, 2024, an interim report by  
39 December 1, 2025, and a final report by July 1, 2026. Meeting

1 summaries must be posted to the website of the attorney general's  
2 office within 30 days of any meeting by the task force.

3 (6) Legislative members of the task force shall be reimbursed for  
4 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
5 members are not entitled to be reimbursed for travel expenses if they  
6 are elected officials or are participating on behalf of an employer,  
7 governmental entity, or other organization. Any reimbursement for  
8 other nonlegislative members is subject to chapter 43.03 RCW.

9 (7) To ensure that the task force has diverse and inclusive  
10 representation of those affected by its work, task force members,  
11 including subcommittee members, whose participation in the task force  
12 may be hampered by financial hardship and may be compensated as  
13 provided in RCW 43.03.220.

14 (8) The definitions in this subsection apply throughout this  
15 section unless the context clearly requires otherwise.

16 (a) "Artificial intelligence" means the use of machine learning  
17 and related technologies that use data to train statistical models  
18 for the purpose of enabling computer systems to perform tasks  
19 normally associated with human intelligence or perception, such as  
20 computer vision, speech or natural language processing, and content  
21 generation.

22 (b) "Generative artificial intelligence" means an artificial  
23 intelligence system that generates novel data or content based on a  
24 foundation model.

25 (c) "Machine learning" means the process by which artificial  
26 intelligence is developed using data and algorithms to draw  
27 inferences therefrom to automatically adapt or improve its accuracy  
28 without explicit programming.

29 (9) This section expires June 30, 2027.

30 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
31 preservation of the public peace, health, or safety, or support of  
32 the state government and its existing public institutions, and takes  
33 effect immediately.

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